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November 24, 2021

Via ECF

Honorable Edward S. Kiel
United States Magistrate Judge for the District of
New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark NJ 07101

Re: *Ameritas Life Ins. Corp. v. Wilmington Trust, N.A., as Securities Intermediary*, Civil
Action No. 2:19-cv-18713

Dear Judge Kiel:

We write in response to the letter filed by Ameritas on November 23, 2021.

As was clear from Securities Intermediary's November 22, 2021 letter (Dkt No. 86), Securities Intermediary read the Court's November 7, 2021 Text Order as pertaining only to the dispute between Ameritas and nonparty Life Equity. If this reading was in error, and the Court intends to address the pending discovery dispute between Securities Intermediary and Ameritas, Securities Intermediary welcomes the opportunity to discuss that dispute with the Court on November 30, 2021. Securities Intermediary's position with respect to the discovery dispute by which it has challenged the sufficiency of Ameritas' productions and privilege log has not changed since its latest briefing to the Court on September 17, 2021 (Dkt No. 82).

Counsel for Ameritas has suggested, by his November 23 letter, that the dispute could be resolved by Securities Intermediary's providing search terms. That view does not acknowledge the depth or *severity* of the dispute. At this late date in the course of discovery, Ameritas' suggestion that the dispute could be resolved by Securities Intermediary's provision of terms-- terms as basic as the policy number of the insurance policy at issue, and the name of the insured, for example, neither

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of which appears to have been run by Ameritas (*see* Dkt No. 82), is naïve (to be kind). Ameritas has acted in bad faith, and Securities Intermediary has been severely prejudiced in this proceeding by not having access to unknown troves of key and hidden responsive documents in Ameritas' possession.

We are grateful for the Court's continuing thoughtful consideration of this dispute.

Sincerely yours,

HOLLAND & KNIGHT LLP

/s Katherine A. Skeele

Katherine A. Skeele

cc: Rebecca Canamero, Esq., *via* NYECF
Jesus E. Cuza, Esq., *via* NYECF
Robert Lesko, Esq., *via* NYECF